

# United States Court of Federal Claims

No. 09-415 C  
September 8, 2009

Unpublished

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**TYRONE HURT,**

*Plaintiff,*

v.

**UNITED STATES OF AMERICA,**

*Defendant.*

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*Tyrone Hurt, pro se.*

*Matthew H. Solomson*, Civil Division, Commercial Litigation Branch, United States Department of Justice, for defendant.

## OPINION AND ORDER

**Block, Judge.**

*Pro se* plaintiff,<sup>1</sup> Tyrone Hurt, brings this suit claiming offense at Black History Month because “everyday is history.” Because plaintiff brings his claim under the Eighth Amendment rather than a money-mandating provision, this court does not have jurisdiction to consider his claims. Plaintiff’s complaint is therefore dismissed.

## FACTUAL BACKGROUND

Plaintiff filed his complaint on June 22, 2009, seeking five trillion dollars in “punitive and compensatory” damages from defendant, the United States of America. Compl. at 3. On behalf of the “African-American population as a whole,” plaintiff alleges that black history month is “erroneous” because “everyday is history . . . whether black or white.” Compl. at 2. Plaintiff claims that the Eighth Amendment to the United States Constitution prohibits the “erroneous” separation of “black history” from the whole of American history, “whether Black or White.” *Id.* (emphases in original).

This court finds it unnecessary to delve into plaintiff’s claims because plaintiff fails to bring a claim within the subject matter jurisdiction of this court.

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<sup>1</sup> Plaintiff’s motion for leave to proceed in this court *in forma pauperis* is GRANTED.

## DISCUSSION

While courts hold *pro se* plaintiffs' pleadings to "less stringent standards than formal pleadings drafted by lawyers," *Haines v. Kerner*, 404 U.S. 519, 520 (1972), "they are not exempt from meeting [the Tucker Act's] jurisdictional requirements," *Lester v. United States*, No. 08-332C, 2009 WL 416287 at \*2 (Fed. Cl. Feb. 17, 2009) (citing *Kelley v. Sec'y Dep't of Labor*, 812 F.2d 1378, 1380 (Fed. Cir. 1987); see *Henke v. United States*, 60 F.3d 795, 799 (Fed. Cir. 1995) (recognizing that a litigant's "act[ing] *pro se* in the drafting of his complaint may explain its ambiguities, but does not excuse its failures"). When a plaintiff plainly fails to assert a claim within the court's subject matter jurisdiction, the court must dismiss the complaint. See, e.g., *Martinez v. United States*, 281 F.3d 1376, 1380, 1384 (Fed. Cir. 2001).

Even under the liberal standards applied to *pro se* complaints, the Court of Federal Claims does not have subject matter jurisdiction over this case. The Tucker Act permits this court to hear only "money-mandating" claims, *United States v. Testan*, 424 U.S. 392, 298 (1976), not "every claim involving or invoking the Constitution." *Eastport Steamship Corp. v. United States*, 732 F.2d 1002, 1007 (Ct. Cl. 1976).

Plaintiff brings this case under the Eighth Amendment to the United States Constitution, which prohibits the federal government from imposing excessive bail, excessive fines, or cruel and unusual punishment. While plaintiff requests, without explanation, five trillion in compensation for his complaint about the existence of Black History Month, see Compl. at 1–3, he bases his claim on the Eighth Amendment. Because the Eighth Amendment "is not a money-mandating provision," *Trafny v. United States*, 503 F.3d 1339, 1339 (Fed. Cir. 2007), this court does not have jurisdiction over claims arising thereunder. *Edelmann v. United States*, 76 Fed. Cl. 376, 383 (2007); *Burman v. United States*, 75 Fed. Cl. 727, 729 (2007).

Plaintiff's failure to base his claim upon any money-mandating contract, statute, or constitutional provision places his claim outside of this court's jurisdiction. *Testan*, 424 U.S. at 398.

## CONCLUSION

Because plaintiff's complaint falls well outside the boundaries of this court's jurisdictional limits, this case is hereby DISMISSED. The Clerk is directed to take the necessary steps to dismiss this matter.

**IT IS SO ORDERED.**

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Lawrence J. Block  
Judge